

REMARKS

The Office Action mailed on April 25, 2007 objected to the Specification and Abstract, and rejected claims 1-26, 52, and 67.

With entry of this Amendment and Response, the Specification, Abstract, and claims 1-5, 7, 10-13, 15, 16, 18-21 and 24 are amended. Claims 26-85 are cancelled without prejudice. Claims 86-90 are added. No new matter is introduced by these amendments.

With entry of this Amendment and Response claims 1-25 and 86-90 will be pending.

In the Specification

The Office Action reminded Applicant of the proper language and format for an Abstract of the disclosure and of the preferred layout for the Specification of a utility application.

Applicant has amended the Abstract to conform to the proper language and format. Applicant has also amended the Specification to conform to the preferred layout.

Rejections Under 35 U.S.C. § 112, Second Paragraph

The Office Action rejected claims 5, 6 and 19-23 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicant regards as the invention.

At the suggestion of the Examiner, Applicant amended claim 5 to delete the phrase “such as.” Accordingly, Applicant respectfully requests that the objection to currently amended claim 5 and dependent claim 6 be reconsidered and withdrawn.

Applicant amended claims 19-23 to provide antecedent basis for “the mouthpiece.” Accordingly, Applicant respectfully requests that the objection to claims 19-23 be reconsidered and withdrawn.

Rejections Under 35 U.S.C. § 102(e)

The Office Action rejected claims 1-4, 7, 8, 52 and 67 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,708,846 to Fuchs et al. (“Fuchs”). In addition, the Office Action rejected claims 1-3, 7, 52 and 67 under 35 U.S.C. § 102(e) as being anticipated by Mazzoni, US 2004/0153033 (“Mazzoni”).

Applicant has obviated these grounds for rejection by amending independent claim 1 to broadly incorporate the subject-matter of dependent claim 5, which the Examiner has indicated to be allowable. Claim 1 now requires, *inter alia*, a plurality of interface units attached to a support and an actuation unit to which the interface units are successively attached. A belt is one embodiment of a support.

Applicant respectfully submits that claims 2-25 are allowable because they depend upon allowable base claim 1.

Rejections Under 35 U.S.C. § 103

The Office Action rejected the following claims under 35 U.S.C. 103(a) as being unpatentable over the following references:

- (a) claims 9 and 26 over Fuchs;
- (b) claims 4, 8, 9 and 26 over Mazzoni;
- (c) claims 1, 2, 12, 15-23, 26, 52 and 67 over Brooker et al. (US 6,269,810) in view of Farr (US 3,802,431); and
- (d) claims 1, 10-15, 24-26, 52 and 67 over Curti et al. (US 2006/0174886) in view of Patton et al. (US 6,681,767).

All of these rejections have been rendered moot by Applicant's amendment of independent claim 1.

New claim 86 is directed to a combination of claims 1, 2 and 10, and requires that the interface unit is disposable unit and comprises, *inter alia*, a mouthpiece into which the subject in use exhales.

In the Office Action, the Examiner has rejected the subject-matter of claim 10 as being unpatentable over Curti *et al* (US-2006/0174886) in view of Patton *et al* (US-6681767). In particular, the Examiner is alleging that the at least one delivery unit of the claimed invention is provided by the desired device (210) of Curti *et al*, where desired devices (210) are embodied as any of a desired gas supply device, a desired monitoring device and a desired detection device (paragraph [0140], lines 11 to 13).

Contrary to the invention as now claimed, however, Curti *et al* makes no disclosure or suggestion of the desired device (210) being part of a disposable interface unit, which includes

the cannula. The desired device (210) is a part separate to the cannula, and is certainly not a disposable device which would be disposed with each cannula, in the manner of the claimed invention.

Accordingly, the subject-matter of new claim 86 is patentably distinguished over the disclosures of Curti *et al* and Patton *et al*.

New claim 89 is directed to a combination of claims 1, 2 and 24, and requires that the interface unit is disposable and comprises, *inter alia*, first and second nosepiece units for fitting to respective nostrils of the subject and first and second delivery units, the delivery units each comprising a substance supply unit for delivering substance through the respective nosepiece unit.

In the Office Action, the Examiner has rejected the subject-matter of claim 24 as being unpatentable over Curti *et al* in view of Patton *et al*. In particular, the Examiner is alleging that the delivery units of the claimed invention are provided by the desired devices (210) of Curti *et al*, where the desired devices (210) are embodied as any of a desired gas supply device, a desired monitoring device and a desired detection device.

As discussed above, contrary to the invention as now claimed, Curti *et al* makes no disclosure or suggestion of the desired devices (210) being part of a disposable interface unit, which includes the cannula. The desired device (210) is a part separate to the cannula, and is certainly not a disposable device which would be disposed with each cannula, in the manner as required by the claimed invention.

Accordingly, the subject-matter of new claim 89 is patentably distinguished over the disclosures of Curti *et al* and Patton *et al*.

Nonstatutory Double Patenting Rejections

Claims 1-4, 7-23, 26, 52, and 67 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of copending Application No. 10/469,114.

Claims 1-4, 7-23, 26, 52, and 67 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 10/469,105.

Claims 1-4, 10, 26, 52, and 67 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 32 of copending Application No. 10/489,187.

Claims 1-4, 10, 26, 52, and 67 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 34 of copending Application No. 10/586,391.

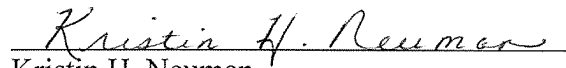
The double-patenting rejection of independent claim 1 has been overcome by the broad incorporation of the subject-matter of claim 5, to which no double-patenting rejection was made. raised.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that claims 1-25 and 86-90 are in condition for allowance and requests early favorable action. The Examiner is welcome to contact Applicant's Attorney at the number below with any questions.

Respectfully submitted,

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